

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-v-

Case No. 15-20037

DENNIS GEORGE DEHATE,

Defendant.

**SENTENCING HEARING
RESTITUTION HEARING (PART ONE)
BEFORE HON. SEAN F. COX**

United States District Judge
257 U.S. Courthouse
231 West Lafayette Boulevard
Detroit, Michigan 48226

(Wednesday, May 18, 2016)

APPEARANCES: MARGARET M. SMITH, ESQUIRE
Appearing on behalf of the Government.

MITCHELL H. NELSON, ESQUIRE
Appearing on behalf of the Defendant.

COURT REPORTER: MARIE METCALF, CVR, CM
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1 Detroit, Michigan

2 Wednesday, May 18, 2016

3 At 2:36 p.m.

4 * * *

5 DEPUTY COURT CLERK: All rise. United States
6 District Court for the Eastern District of Michigan is in
7 session, the Honorable Sean Cox presiding. Please be seated.
8 The Court calls case number 15-20037, United States
9 of America versus Dennis George Dehate.

10 Counsel, we need appearances for the record, please?

11 MS. SMITH: Good afternoon, Your Honor. Maggie
12 Smith appearing on behalf of the United States.

13 And with me at counsel table is Special Agent
14 Danielle Christenson with the FBI.

15 THE COURT: Good afternoon.

16 MR. NELSON: Good afternoon, Your Honor. Mitchell
17 Nelson appearing on behalf of Dennis DeHate, who is present
18 and on my left-hand side.

19 THE COURT: Good afternoon as well.

20 Could both of you approach real quick?

21 (Bench conference held off the record)

22 THE COURT: Okay. This is the sentencing hearing in
23 this matter. I have carefully reviewed the presentence
24 report, the defendant's sentencing memorandum with letters in
25 support of Mr. Dehate, the government's sentencing memo, as

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1 well as its motion for restitution.

2 All right. Mr. Nelson, have you had the opportunity
3 to review the presentence report with your client?

4 MR. NELSON: I have, Your Honor. And we've filed
5 objections which the Court has ruled on in chambers today --
6 or talked to us about today.

7 THE COURT: Well, we went over them in chambers, but
8 we're going to go on the record, because reviewing the
9 presentence report -- sorry, reviewing the sentencing
10 memorandum and then the presentence report with the
11 objections, I wasn't exactly sure what the objections were
12 and so we discussed the issue in chambers.

13 I discussed it with you, and Ms. Smith and
14 Mr. Hampstead, and I think we're ready to proceed with those
15 objections on the record right now.

16 So why don't we turn to defendant's objections.

17 COURT REPORTER: Please pull the microphones towards
18 you. Thank you.

19 THE COURT: All right. The first objection is --
20 was defendant's objection number one, there is no conviction
21 under 18 U.S.C. Section 2551(e).

22 And Mr. Hampstead drafted a -- prepared a response
23 for us. And perhaps Mr. Hempstead can explain why he wrote
24 that paragraph of the presentence report on page two the way
25 he did.

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1 MR. HAMPSTEAD: Yes, sir. The defendant was found
2 guilty of production of child pornography, pursuant to 18
3 U.S.C. 2251(a). Under the same statute, the penalties were
4 -- of that offense were listed under 18 U.S.C. 2251(e).

5 As part of our duties with probation we list down
6 the statute that lists the specific penalties for that
7 conviction. That is why that is listed there.

8 THE COURT: Mr. Nelson?

9 MR. NELSON: That's satisfactory, Your Honor.

10 THE COURT: So you withdraw your objection based
11 upon that explanation?

12 MR. NELSON: We do.

13 THE COURT: Okay. Next objection, objection number
14 two, release status.

15 In the release status, the correct date is January
16 13, 2015, that's defendants position.

17 And the correct date is -- I guess we all came up
18 with the correct date, but I don't have that in my notes
19 right now.

20 MS. SMITH: Your Honor, if I may, I think it's
21 January 13, 2015.

22 MR. HAMPSTEAD: That's correct.

23 MR. NELSON: That's correct, Your Honor.

24 THE COURT: Okay, very good.

25 All right. Objection number three, paragraph two,

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1 identifying data. Defendant's objection was that Mr. DeHate
2 has two income tax dependents, both his wife and his son.

3 The response from probation was, according to the
4 defendant, he and his wife divorced in April of 2015.

5 The defendant's son is 24 years of age and attending
6 Eastern Michigan University.

7 The defendant has not produced any documents to
8 support the claim that his ex-wife and son are income tax
9 dependents. And probation is correct, if they divorced in
10 April of 2015, I don't know how his wife would be a dependent
11 currently.

12 MR. NELSON: Your Honor, we will withdraw that
13 objection. He has obviously had no income and filed no
14 income tax since his date of incarceration in January of
15 2014, so --

16 THE COURT: So the defense is withdrawing its
17 objection number three, is that correct?

18 MR. NELSON: Correct.

19 THE COURT: All right. Very good.

20 The next objection was objection four, defendant's
21 position, the testimony was that this app is popular with all
22 ages and parental consent is required by individuals under 15
23 years of age.

24 And then probation's response is:

25 "As the trial of this matter took place

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1 before the Court, the Court is in the best
2 position to decide this matter."

3 And I believe you are correct, because I reviewed my notes
4 from the trial and there was no testimony that parental
5 consent is required for this app.

6 In fact, it was just the opposite, that these teens
7 and preteens can get this app without parental consent.

8 So I'm overruling objection number four.

9 Okay. Objection number five.

10 Defendant's position, there was no testimony that
11 any of these three videos were filed under Mr. DeHate's
12 phone, which was inoperable.

13 Ms. Smith, do have a position on that?

14 MS. SMITH: Yes, Your Honor. All three videos that
15 are in question were located in the defendant's phone. They
16 were admitted as exhibits at trial, as was the entire
17 forensic report that located those videos.

18 And Special Agent Jason Morrison testified as to
19 extracting those videos from the phone.

20 THE COURT: Do you still have an objection,
21 Mr. Nelson, on that?

22 MR. NELSON: We do, Your Honor.

23 THE COURT: Well, Ms. Smith's position is absolutely
24 correct and that's reflected in my notes as well, and
25 reviewing the testimony of two individuals in particular, as

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1 well as an individual that Ms. Smith mentioned, Officer
2 Kohlmeyer, K-o-h-l-m-e-y-e-r, as well as Danielle
3 Christenson.

4 So that objection is overruled.

5 The next objection is five. Mr. Dehate never made
6 any admissions in this interview with police on January 13,
7 2015.

8 Well, that's not correct. I went through my notes
9 and he made admissions to Officer Kohlmeyer, as well as
10 Special Agent Christenson during the course of interviews
11 they had with him.

12 So we are now on objection seven, is that correct?

13 MR. NELSON: That's correct, Your Honor.

14 THE COURT: Testimony at trial was that two alleged
15 images of MV1 were on his cell phone. Your objection --
16 whatever. Let's look at paragraph 19.

17 This is the one I was not exactly sure about what
18 you were objecting to, okay? Paragraph 19, a review of --
19 reads:

20 "A review of his cellular telephone revealed
21 not only the video of MV1 masturbating, but also
22 eight to twelve images of MV1 that are child
23 pornography."

24 And then testimony at trial was that two alleged images of
25 MV1 were on his cell phone report.

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1 Ms. Smith?

2 MS. SMITH: Your Honor, the forensic report as I
3 noted was fully admitted at trial. It contained multiple
4 images of minor victim one that included a video of sex acts,
5 as well as a number of images that showed lascivious display
6 of genitals.

7 Special Agent Morrison and Special Agent Christenson
8 testified to those images and those images were also admitted
9 as exhibits.

10 And I would add that those images were also
11 consistent with the defendant's confession of what he
12 received from minor victim one.

13 THE COURT: But it's the defendant's position that
14 there were only two images?

15 MR. HAMPSTEAD: That's correct, Your Honor.

16 THE COURT: How many images were there?

17 MS. SMITH: Your Honor, I believe there was eight to
18 twelve images that qualified under the definition of child
19 pornography, as well as the video, which counts as 75 images
20 under the guidelines.

21 THE COURT: That's correct.

22 MR. NELSON: Your Honor, it's our position none of
23 these videos -- that the video did not exist on the phone,
24 just a link to the video that was contained on the server for
25 this company.

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1 THE COURT: Well, I'm basing my ruling based upon
2 the evidence presented during the course of the trial.

3 So we're now at objection eight, is that correct?

4 Objection to paragraph 20. And the Scottish
5 female's age is not established, but that she was young.

6 Well, I went through my notes and it was your client
7 that established the age of this Scottish female in a
8 statement he made to Officer Kohlmeyer, stating that she was,
9 according to my notes, "Amy on KIK."

10 He said that he had communicated with underage girls
11 and Amy on KIK was 16, from Scotland. That is right in my
12 notes.

13 So I am overruling that objection. That paragraph
14 20 is accurately written.

15 Twenty-one. All evidence concerning this account
16 was suppressed by the Court on defendant's motion and should
17 not be included in this report.

18 Ms. Smith?

19 MS. SMITH: Your Honor, I think suppression is a
20 legally incorrect term for the evidence that was in the K9
21 for Fun account.

22 The government from the outset agreed not to
23 introduce certain evidence out of that account, including
24 evidence of bestiality and incest.

25 However, we litigated the issue of whether some

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1 other evidence of his sexual interest in children would be
2 admissible pursuant to Federal Rule of Evidence 404(b).

3 The Court denied without prejudice the government's
4 ability to introduce those exhibits at trial. The government
5 decided not to introduce those exhibits at trial.

6 Aside from that, the presentence report is not
7 limited to only admitted exhibits at trial. The Court can
8 consider any conduct at sentencing, as long as the standard
9 is met by a preponderance of the evidence. And we believe
10 that we have met that standard, that that account existed and
11 that it belonged to the defendant, and the presentence report
12 should remain as written.

13 THE COURT: That's correct, that that evidence was
14 put before the Court. It was shown to the Court by a
15 preponderance of the evidence. However, it just was not
16 allowed to be used or was not used during the course of the
17 trial.

18 And as we learned, "Andy" is the nickname for his
19 daughter.

20 Paragraph 22. For presentencing guideline purposes,
21 the defendant is being held accountable for enticing the
22 production of child pornography, possession or receipt of at
23 least 85 images of child pornography, sending obscene
24 materials to a minor and attempting to entice or coerce a
25 minor, MV2, into sending child pornography.

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1 The objection is, the defendant was not charged or
2 convicted of any illegal activity regarding MV2.

3 What's the government's position?

4 MS. SMITH: Your Honor, as I stated before, the
5 Court is allowed to consider conduct that's not charged or
6 not convicted as relevant conduct.

7 Under the guidelines, Section 2G1.3(d)(1), and
8 application note six, it would be proper for the Court to
9 count minor victim two as another victim.

10 If the Court is inclined to grant his objection, I
11 would note that even if it doesn't score under the
12 guidelines, it can still be considered under the 3553(a)
13 factors.

14 MR. NELSON: Your Honor, we would object to even the
15 scoring of this alleged conduct or the inclusion of it in the
16 report is not necessary to present an accurate picture of
17 Mr. DeHate to the Department of Prisons.

18 THE COURT: I won't include it in the scoring, but I
19 certainly can use it as 3553(a) factor. And I will do so.

20 MR. NELSON: We'll accept that, Your Honor.

21 THE COURT: Okay.

22 Objection 12, is that now resolved, based upon the
23 ruling on objection -- sorry.

24 Objection -- we missed 11. If I miss something, you
25 guys have got to let me know, okay?

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1 Objection 11, it's my understanding you're going to
2 withdraw that objection, is that correct?

3 MR. NELSON: That's correct. We went over the case
4 law with the AUSA and we would agree to withdraw that.

5 THE COURT: Okay. Objection 12. Based upon my
6 ruling in objection ten, is twelve resolved?

7 I've got to hear from you.

8 MS. SMITH: I believe it is, Your Honor.

9 MR. NELSON: That's correct, Your Honor.

10 THE COURT: Okay. Thirteen --

11 MS. SMITH: Thirteen would also be resolved with
12 your ruling, Your Honor.

13 MR. NELSON: That's correct.

14 THE COURT: Fourteen?

15 Mr. Nelson, is it --

16 MR. NELSON: That would also be under the same
17 ruling, Your Honor, I believe.

18 THE COURT: It's resolved because of my ruling with
19 ten?

20 MR. NELSON: Correct.

21 THE COURT: Ms. Smith, is that correct?

22 MS. SMITH: Yes, Your Honor. For paragraph 60,
23 instead of a three, it should be a two, and then that is
24 resolved by your ruling.

25 MR. NELSON: That is correct, Your Honor.

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1 THE COURT: Okay. We are now on objection 15,
2 correct?

3 MR. NELSON: Yes.

4 THE COURT: So the adjusted offense level should now
5 be 40, is that correct?

6 MR. HAMPSTEAD: That is correct.

7 MS. SMITH: That is correct, Your Honor.

8 MR. NELSON: That is, Your Honor.

9 THE COURT: Sixteen. Again, the total offense level
10 should be 40, is that correct?

11 MS. SMITH: Yes, Your Honor.

12 MR. NELSON: Yes, Your Honor.

13 THE COURT: Okay. Paragraph -- objection 17 and
14 that's the paragraph 73.

15 MS. SMITH: Your Honor, I believe that this one is
16 resolved based on your ruling under objection number nine.

17 MR. NELSON: That's correct, Your Honor.

18 THE COURT: All right. Eighteen, paragraph 80.

19 DeHate stated that he has arthritis in his right
20 shoulder and wrist, both knees and both feet, and he has been
21 dealing with such since his twenties.

22 He also reported experiencing back pain. The
23 dependent states he takes ibuprofen as needed for pain
24 associated with his arthritis and back pain.

25 So tell me what you're objecting to, the defense is

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1 objecting to in paragraph 80.

2 MR. NELSON: Your Honor, we're asking for inclusion
3 as it's the only medication he is receiving for these
4 conditions is ibuprofen in the prison facility.

5 THE COURT: Okay. But what's inaccurate in
6 paragraph 80?

7 MR. NELSON: The symptoms are accurate, but the
8 condition is being treated as needed. The only treatment he
9 is receiving is the ibuprofen.

10 THE COURT: It's being treated as needed, but as
11 perceived by whoever is taking care of him in Milan. I'm not
12 going to change it.

13 The 19th objection now. We're now at 19, is
14 paragraph 87.

15 MR. NELSON: Your Honor, we will withdraw that
16 objection.

17 THE COURT: So you're withdrawing the objection to
18 objection 19, is that correct?

19 MR. NELSON: Correct, Your Honor.

20 THE COURT: Twenty. I guess we resolved 20 as to
21 paragraph 89, and that address will be inserted for Future
22 Die Cast and Engineering, is that correct?

23 MS. SMITH: That's correct, Your Honor.

24 MR. HAMPSTEAD: Yes.

25 MR. NELSON: Your Honor, my client has indicated to

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1 me that it isn't his wrist, it's his hip that has been having
2 the pain, not the wrist.

3 THE COURT: So he wants to insert that -- insert
4 what?

5 MR. NELSON: Hip instead of wrist that's causing the
6 conditions.

7 MR. HAMPSTEAD: Yes, sir. I will add that in.

8 THE COURT: Not a problem.

9 So objection 20 we have resolved, is that correct?

10 MR. NELSON: Yes, Your Honor.

11 MS. SMITH: Yes, Your Honor.

12 THE COURT: Put in the address for Future Die
13 Casting and Engineering. Apparently when Mr. Dehate was
14 originally interviewed by Mr. Hempstead, he did not give the
15 complete name of the company which made it very difficult, if
16 not impossible, to track down the address of the company.

17 Twenty-one, paragraph 90. What is inaccurate about
18 paragraph 90?

19 MR. NELSON: Your Honor, we will withdraw that.

20 Our objection was, it wasn't responsive to request
21 for verification of employment.

22 THE COURT: So you're withdrawing objection 21?

23 MR. NELSON: Correct.

24 THE COURT: What about objection 22?

25 MR. NELSON: We would ask that that -- at least the

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1 time period of Mr. Dehate's unemployment be characterized as
2 the beginning -- end of 2008, beginning of 2009.

3 THE COURT: The defendant stated that -- told
4 probation that roughly -- stated that between roughly 2009
5 and 2011 he was unemployed.

6 Is he denying making that statement?

7 MR. NELSON: No. It was just characterizing the
8 period in more detail, Your Honor.

9 THE COURT: Okay. I don't see any reason for me to
10 change paragraph 91. And that would be dealing with
11 objection 22.

12 Now, we move on to objection 23.

13 I guess we've resolved that and we have the address
14 of Futuramic Tool and Die on Gibson Drive in Warren, is that
15 correct?

16 So we have resolved objection 23 with the full
17 address of the company, correct?

18 MR. NELSON: That's correct Your Honor.

19 MS. SMITH: Yes, Your Honor.

20 THE COURT: And objection 24. And that would be
21 page 12, paragraph 95.

22 The correct score is 40, is that correct?

23 MR. NELSON: Yes, Your Honor.

24 THE COURT: And the guidelines, which are, of
25 course, advisory, are now 292 to 365, is that correct?

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1 MS. SMITH: That's consistent with your rulings,
2 yes, Your Honor.

3 MR. NELSON: That is correct, Your Honor.

4 THE COURT: Now we're moving to objection 25,
5 paragraph 112. And what's the objection to paragraph 112?

6 Line four and beyond should be excluded, as the age
7 of this other person was never established and the other
8 alias accounts was suppressed by the Court.

9 Mr. Nelson?

10 MR. NELSON: I believe, Your Honor, this was --
11 would be covered by the Court's previous ruling on this
12 matter regarding the Scottish individual.

13 THE COURT: So according to my count, you want me to
14 remove everything starting with "he is divorced and has two
15 children"? That was your request?

16 MR. NELSON: That's correct.

17 THE COURT: "Both of whom remains contact," so on
18 and so forth.

19 Well, that's -- as I understand, this has all been
20 resolved as -- it's accurate.

21 MR. NELSON: That's correct, Your Honor.

22 THE COURT: Okay. Have we covered all the
23 objections by the defense, Mr. Nelson?

24 MR. NELSON: Defense is satisfied, Your Honor.

25 THE COURT: And, Mr. Nelson, any other objections,

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1 additions, corrections or deletions that you wish to bring to
2 my attention regarding the presentence report?

3 I'm going to ask your client separately, but --

4 MR. NELSON: Okay. Nothing at this time, Your
5 Honor.

6 THE COURT: Now is the time.

7 MR. NELSON: I have nothing further.

8 THE COURT: Ms. Smith, have you had the opportunity
9 to review the presentence report?

10 MS. SMITH: I have, Your Honor.

11 THE COURT: And do you have any objections,
12 additions, corrections or deletions that you wish to bring to
13 my attention?

14 MS. SMITH: I do not.

15 THE COURT: Mr. Dehate, have you had the opportunity
16 to review the presentence report with your attorney?

17 DEFENDANT DEHATE: Just really what we've done just
18 now. I mean, I looked at it before that he made all the
19 objections, but this is all I've seen of it just here today
20 in court.

21 THE COURT: Well, he reviewed this with you?

22 DEFENDANT DEHATE: Just now, yeah.

23 THE COURT: No, he reviewed it with you previously.

24 DEFENDANT DEHATE: Yeah, but I'm -- what I'm saying
25 is, is he reviewed it with me and we made the objections. I

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1 haven't -- I never saw anything with it being corrected,
2 except for what I've seen here in court today.

3 THE COURT: Well, it hasn't been corrected, until I
4 correct it.

5 DEFENDANT DEHATE: Okay. Well then, yes, sir,
6 you're right.

7 THE COURT: So you've reviewed it several weeks ago?

8 DEFENDANT DEHATE: Yes.

9 THE COURT: You reviewed the presentence report with
10 Mr. Nelson, correct?

11 DEFENDANT DEHATE: Yes.

12 THE COURT: And you went over with him the different
13 objections, including objections that you had, is that
14 correct.

15 DEFENDANT DEHATE: Yes.

16 THE COURT: And we discussed those objections just
17 now, correct?

18 DEFENDANT DEHATE: Yes.

19 THE COURT: And so do you have any further
20 objections, additions, or corrections or deletions that you
21 wish to bring to my attention?

22 DEFENDANT DEHATE: None that I can think of, sir.

23 THE COURT: Now's the time.

24 DEFENDANT DEHATE: Nothing I can think of.

25 THE COURT: And just so the record reflects, you've

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1 had quite a bit of time to review the presentence report and
2 think about these -- think about objections and whatever
3 objections you wanted to bring to the Court or your attorney.

4 All right. Mr. Nelson, is there anything you wish
5 to say on behalf of your client before I impose sentence.

6 And again, the guidelines, which are advisory, have
7 they been correctly scored, Ms. Smith and Mr. Nelson, at 292
8 to 365?

9 MR. NELSON: The defense is satisfied, Your Honor.

10 THE COURT: They're accurate?

11 MR. NELSON: Yes.

12 MS. SMITH: Your Honor, yes, I believe they're
13 accurate.

14 And I would further inquire, is the Court adopting
15 the presentence report with the changes that you made just
16 now?

17 THE COURT: Yes.

18 MS. SMITH: Thank you.

19 THE COURT: Mr. Nelson, is there anything you wish
20 to say on behalf of your client before I impose sentence?

21 MR. NELSON: There is, Your Honor. Would you prefer
22 I use the podium?

23 THE COURT: You're fine there.

24 MR. NELSON: Okay. Your Honor, I would refer the
25 Court to my memorandum of sentencing that I presented to the

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1 Court.

2 THE COURT: And you're asking for 180 months?

3 MR. NELSON: That's correct, Your Honor. It's our
4 position that the mandatory minimum for the production charge
5 is more than adequate and sufficient to provide deterrence to
6 other individuals from this type of crime, to enable him to
7 seek rehabilitative services in the Bureau of Prisons.

8 I think the measure of justice of our society is
9 always measured against how we treat people in the most
10 awkward, difficult circumstances.

11 It's easy to be afraid. It's easy to be fearful of
12 individuals. It's easy to make people into villains when
13 they are really people who make terrible mistakes.

14 Any of the sentence range we're talking about in
15 this case are, in effect, a life sentence for Mr. Dehate. He
16 is a 51-year-old individual who has never been convicted of
17 any crime before in his life.

18 The nature of the crime is an anomaly in our
19 statutes in that it creates a 15-year mandatory minimum for a
20 case without a mens rea requirement, without a guilty mind
21 requirement, that somehow, because of the fear about these
22 types of charges, our Congress has said that you do not have
23 to prove an individual actually knew the age of the
24 individual who supposedly he was producing pornography of.

25 That is exactly what the jury was instructed.

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1 That's exactly what they found Mr. Dehate guilty of, a
2 general intent crime for the production.

3 It was our position at trial that he never knew the
4 age of the girl. The confession that the prosecution went
5 on, and on, and on in their summation about was based on a
6 question to him about whether she could have possibly been 13
7 or 14 well after any of these acts occurred.

8 I'm not here to re-litigate that case. But, Your
9 Honor, the stakes for Mr. Dehate are tremendous. Any
10 sentence over 30 years would classify him as a maximum
11 security facility, where he would be unable to receive any
12 type of rehabilitative treatment, a massive amount of time,
13 no rehabilitation, in a maximum security prison for an
14 individual who has never run afoul of the law before in his
15 life.

16 Anything under 30 years would enable him to receive
17 rehabilitative services, would allow him in a medium security
18 prison, where in reality his life would be less likely to be
19 in jeopardy than in a maximum security facility. There is no
20 question about it.

21 I'm sure the Bureau of Prisons does the best they
22 can to protect individuals in a circumstance, but this is
23 something that is anathema to the rest of the prison
24 population.

25 That's why I'm asking the Court to consider a

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1 sentence guideline under the sentencing -- under the
2 guidelines, closer to the 15-year. At a 15-year sentence,
3 Mr. Dehate would be in the Department of the Bureau of
4 Prisons until he'd be mid-sixties, certainly no danger to
5 anyone on his release.

6 He certainly could be on supervised release,
7 certainly precautions could be placed on supervised release
8 which would prevent him from doing anything of this nature
9 again.

10 Even the nature of the charge itself, there was no
11 indication he was ever attempting to meet with this young
12 lady, that he was attempting to have her come meet him.

13 This was an internet transaction entirely. It
14 doesn't make it right. But it should be something to be --
15 to be distinguished from the case of an individual who
16 actually is filming somebody, producing the film, directing
17 them into sexual acts, that type of thing.

18 This is a different type of situation we have with
19 Mr. Dehate. We're asking for the Court to take this into
20 account, take the --

21 THE COURT: You're telling me that he didn't direct
22 her to do certain sexual acts?

23 MR. NELSON: Not specifically. He didn't direct her
24 how to do it or et cetera. There was a comment about a
25 masturbation video. As a matter of fact, there was a

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1 discussion where --

2 THE COURT: What about the flashlight?

3 MR. NELSON: Well, that was in a discussion that
4 some other person had asked her to put something in her butt
5 and he said you absolutely should not do that.

6 We are asking the Court to be as lenient as possible
7 to Mr. Dehate due to the lack of criminal history, lack of
8 prior involvement of any type of illegal activity, and the
9 unusual circumstances, the way this whole set of transactions
10 occurred.

11 There was no other videos of any child pornography
12 on his phone, computer. They were all seized, they were all
13 examined. An individual usually who has a child pornography
14 problem, there would be hundreds of videos.

15 What we have in this case is, the only alleged
16 pornography is involving my client and MV1. There was
17 discussions with supposedly -- who was supposedly under age,
18 but no alleged child pornography, not one other photograph of
19 alleged child pornography by any other individual.

20 So I would ask the Court to take this all into
21 consideration in forming an appropriate sentence.

22 THE COURT: Okay. I understand your argument.

23 Thank you.

24 Ms. Smith, is there anything you wish to say on
25 behalf of the government before I impose sentence?

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1 MS. SMITH: Your Honor, I would. And this is going
2 to take two parts.

3 I have an allocution and then minor victim one's
4 father would like to be heard from this Court.

5 I'm going to start off with my allocution. This is
6 a case that Your Honor has sat through the trial, so I don't
7 think I need to rehash all of the details.

8 But this is not even close to a mandatory minimum
9 type of case. The nature and circumstances of this offense
10 warrant a significant sentence.

11 This defendant preyed on a lonely, depressed and
12 troubled child. He knew she was 13 from the first day that
13 he met her online. He knew she was fragile from everything
14 that she was telling him.

15 And he exploited her. He exploited her by using
16 grooming techniques, by having her call him "daddy" and
17 putting himself in a position of authority, by telling her he
18 loved her and tricking her into thinking that they had a
19 romantic relationship.

20 This defendant crawled into this child's bed every
21 night through that phone, manipulated, coerced and enticed
22 this child, and still to this day he denies his conduct and
23 is not sorry that he did so.

24 The history and characteristics of this defendant
25 also warrant a significant sentence. His lack of remorse

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1 through all of this should be of great concern to this Court.
2 He denies that he ever made a confession. He denies his
3 conduct. And all of that makes him ripe for reoffending.

4 In addition to his behavior with minor victim one,
5 the evidence shows a strong sexual interest in children.
6 This is not, as the defendant would claim, a lonely old man
7 nearing a mutual divorce. This is, make no mistake about
8 this, this relationship that he enticed with minor victim
9 one, was far from emotional equals seeking support of each
10 other. This defendant worked and manipulated this child to
11 force her to engage in sex acts for him.

12 But it wasn't just minor victim one. This court has
13 seen evidence from his chats with Amy where he specifically
14 encouraged her to engage in sex acts and take pictures.

15 This Court has seen evidence from his Experience
16 Project chats where he posed as his own daughter, where he
17 tried to engage young adolescents in sexual topics. He
18 propositioned a woman to have sex with her seven-year-old
19 daughter.

20 And in these chats, he is relentless when this woman
21 fails to respond about meeting up in person. In fact, day
22 after day, he says, "Where have you been? How did you forget
23 about me? Are you not talking to me anymore? Hey, what's
24 up? Long time no hear. Hello? Hello? Can we talk?"

25 This is the woman who promised him that he could

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1 have sex with her seven-year-old daughter. And he was so
2 anxious to take the bait that he wouldn't let up. This is
3 not a one-off, what he did with minor victim one. This is a
4 sexual predator in need of deterrence.

5 With that, Your Honor, I would like to invite minor
6 victim one's father to come in and make his statement to the
7 Court.

8 (Restitution Hearing (Part One) follows)

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Restitution Hearing (Part One)

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(Restitution Hearing (Part One) commences)

THE COURT: And I guess we're going to have a restitution hearing shortly and we will schedule that right at the end of this proceeding. But Mr. Gamble was going to give us certain testimony, as I understand it, regarding restitution as part of the hearing we're having here today.

MS. SMITH: Yes, Your Honor.

May I take your testimony before you make your statement? Would that be okay?

Would you like him to take the witness stand?

THE COURT: Sir, would you like to come up and give your full name to our court reporter, please?

THE WITNESS: E-f-f-t-e-r, G-a-m-b-l-e.

EFFTER GAMBLE, GOVERNMENT'S WITNESS, SWORN

MS. SMITH: Good afternoon, sir. May I begin?

THE COURT: Yes.

MS. SMITH: Thank you.

DIRECT EXAMINATION

BY MS. SMITH:

Q Could you state your name for the record?

A Effter Dion Gamble.

Q And how are you related to minor victim one?

A I'm her father.

Q Did you testify in the trial against Dennis George Dehate

Restitution Hearing (Part One)

1 in January of 2016?

2 A Yes.

3 Q And consistent with your testimony, when did minor victim
4 one begin psychological therapy?

5 A Shortly after we uncovered the incident.

6 Q And when you say "incident," what do you mean?

7 A The actions with the defendant on her phone.

8 Q Had she been in therapy prior to you discovering the text
9 messages and the images on her phone?

10 A She previously had one consultation with a therapist
11 before. An assessment was done and we deemed her to be okay.

12 Q And so what was the purpose of her therapy beginning in
13 July of 2014?

14 A It was the result of this incident.

15 Q And how frequently did minor victim one go to therapy?

16 A She attends on a weekly basis. For a while she attended
17 a weekly therapy session and she was also in a support group
18 for a while. Unfortunately, the support group was
19 dismantled.

20 Q I'm sorry, say that again? The support --

21 A The support group was dismantled.

22 Q And was the cost of the counseling approximately \$130 a
23 session?

24 A Correct.

25 MS. SMITH: May I approach the witness?

Restitution Hearing (Part One)

1 THE COURT: Yes. And will you mark that as Exhibit
2 One?

3 MS. SMITH: Okay.

4 BY MS. SMITH:

5 Q I'm going to show you what we're going to mark as
6 Government Exhibit One.

7 It is three pages from the Center for Therapy and
8 Counseling Services, LLC, and two pages that are entitled
9 "Statement of Account."

10 Do you recognize those?

11 A Yes.

12 Q Can you explain to the Court what those documents are?

13 A Yes. These are the invoices from her therapist, the
14 Center for Therapy. The \$70 charges and the \$50 charges are
15 for her session with the therapist. The \$10 charges are the
16 copayments for the support group.

17 The therapist since left Center for Therapy, started
18 her own practice and these are the invoices with the
19 therapist. So we wanted her to keep the same therapist.

20 MS. SMITH: Thank you. At this time I move to admit
21 Government's Exhibit One.

22 THE COURT: Any objection?

23 MR. NELSON: No objection.

24 THE COURT: What's the total on the -- if you have a
25 total? I can figure it out.

Restitution Hearing (Part One)

1 MS. SMITH: Give me one second.

2 And for the record, Government's Exhibit One was
3 also attached as Exhibit B to the motion for restitution
4 request which is filed under seal.

5 Approximately \$11,960.

6 BY MS. SMITH:

7 Q Does that sound accurate, Mr. Gamble?

8 A Yes.

9 Q Have you had discussions with minor victim one's
10 therapist?

11 A Yes.

12 Q Has she offered an opinion to you as to how long she
13 should continue therapy?

14 MR. NELSON: Objection, hearsay.

15 MS. SMITH: Well, this isn't a trial. It's --

16 MR. NELSON: Well, I have no documentation
17 whatsoever. It's still hearsay.

18 MS. SMITH: I would ask the Court's indulgence on
19 these questions.

20 THE COURT: I think for the purposes of this hearing
21 she can ask hearsay questions.

22 Now, it's my understanding, of course, if I am
23 incorrect, the restitution hearing will continue, and if you
24 have authority to show that I'm incorrect in my
25 understanding, then you can provide that to me at that time,

Restitution Hearing (Part One)

1 because I assume you have no authority right now.

2 MR. NELSON: I do not. I wasn't prepared for any
3 testimony about the therapist. I didn't receive any
4 documentation that we'd be discussing what the therapist may
5 or may not have said. Just that -- the bills. That's all we
6 saw.

7 THE COURT: Right.

8 MS. SMITH: I would ask the Court's indulgence to
9 take this testimony of minor victim one's father, because he
10 has traveled here from New Jersey and he is on a flight back
11 at 7:00 tonight.

12 THE COURT: Right, okay. Go ahead.

13 MS. SMITH: It's my understanding we will be allowed
14 to supplement the record to continue this restitution --

15 THE COURT: We're just starting -- we're just doing
16 the first phase of this restitution hearing because
17 Mr. Gamble is obviously from out of town, New Jersey, and
18 obviously it cost him -- there was a lot of expense for him
19 to come in for trial and there was an expense for him to be
20 here today. And we just don't want to cost Mr. Gamble and
21 his family anymore money because of this litigation. Go
22 ahead.

23 MS. SMITH: Thank you, Your Honor.

24 BY MS. SMITH:

25 Q Has minor victim one's therapist offered you an opinion

Restitution Hearing (Part One)

1 as to how long she should continue therapy?

2 THE COURT: What's the name of the therapist?

3 THE WITNESS: Vida Allen. Yes.

4 BY MS. SMITH:

5 Q And what was her opinion?

6 A She will be in therapy at least until she is 18. We
7 expect her to be in therapy at least until 21 and for the
8 foreseeable future.

9 We -- to be quite candid, we are only now starting
10 to make progress. There are still certain topics that we
11 have not broached, and she still has been unable to talk
12 about.

13 As her father, I can tell you she will be in therapy
14 for the foreseeable future. It will take years in my opinion
15 to undo the damage that has been done.

16 MR. NELSON: Objection, Your Honor. He's not a
17 medical professional.

18 THE WITNESS: But I am her father --

19 MS. SMITH: Hold on.

20 THE WITNESS: Excuse me.

21 THE COURT: Sir, wait.

22 I understand your objection -- or your thought. Go
23 ahead.

24 THE WITNESS: May I say, though --

25 THE COURT: We're good, we're good.

Restitution Hearing (Part One)

1 BY MS. SMITH:

2 Q Mr. Gamble, how far of a drive is it to get to minor
3 victim one's therapy for her -- approximately what is the
4 distance from her house to the therapist?

5 A It's about 60 miles. We've subsequently moved from the
6 location where we lived when we first started going to the
7 therapist.

8 Q When you say "60 miles," do you mean 60 miles one way?

9 A Yes.

10 Q And is she going to therapy every week?

11 A Yes.

12 Q And every week do you drive 60 miles to get to the
13 therapist?

14 A Her mother takes her, picks her up from school and drives
15 to therapy, yes.

16 Q And then you drive 60 miles back after the therapy
17 session is over?

18 A Yes, yes.

19 Q And is that because you want to keep consistency with her
20 therapist?

21 A Yes. She has made a connection with this therapist and
22 we did not want to uproot her and try to get everything again
23 with a new therapist.

24 Q Has she changed her rates since she moved to a new
25 office?

Restitution Hearing (Part One)

1 A No.

2 MS. SMITH: I don't have any other questions, Your
3 Honor.

4 THE COURT: Any questions on the restitution issue?

5 MR. NELSON: Your Honor, I have no questions.

6 I would reserve possible testimony at the full
7 restitution hearing, presenting testimony or -- I would
8 request a full report from the psychologist.

9 THE COURT: Okay. You can let me know your thoughts
10 in advance of the hearing and please prepare a response to
11 the government's motion seven days prior to the hearing.
12 Okay.

13 MR. NELSON: Correct, Your Honor. I just received
14 their motion Monday night.

15 THE COURT: Okay. Sir, thank you very much.

16 (Restitution Hearing (Part One) concluded)

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(Sentencing hearing resumes)

MS. SMITH: At this time, Your Honor, I would like Mr. Gamble to be able to make his statement.

THE COURT: I apologize.

MS. SMITH: And I would like him to be able to stand here, rather than on the witness stand.

THE COURT: Sure, wherever he wants. I apologize. Go ahead.

MS. SMITH: You can come over here. Thank you.

THE COURT: You may proceed, sir.

MR. GAMBLE: On behalf of my daughter, this entire experience has been extremely traumatic for your entire family.

What has been taken from her is her innocence. She has not been the same. My daughter is 15 and she sleeps with her mother on a nightly basis. She still has nightmares.

Again, this is a topic that we have been unable to have closure on. We cannot -- we do not -- it's the white elephant in the room. We have therapy as a safe place to try to move forward, but she is still not -- she is still unprepared and unwilling to deal with this. So as we try to make progress, we know it's a topic that has to be discussed, but she keeps saying she's not ready.

This has had a tremendous impact upon our entire

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1 family. To give you an example, my oldest daughter, who we
2 were very open with, she knows -- all she knows is her
3 sister's in therapy. She does not know the details. She
4 sees -- she's made the comment, "Brianna gets away with
5 things that I never got away with as a child." She says it's
6 a completely different dynamic.

7 And again, it's because we are proceeding with such
8 caution as a result of this. This defendant purposely and
9 willfully preyed upon her. In my opinion, this is the
10 definition of a predator. What he has taken from her can
11 never be restored.

12 And I would ask the Court to give him the maximum
13 penalty so that he can never be allowed to do this to another
14 child. It is wrong.

15 And as far as my previous comment, we will have to
16 deal with this for years. For years going forward we will
17 have to deal with this. And I ask that the Court take that
18 into consideration and sentence him to the maximum allowable
19 under the law. Thank you.

20 THE COURT: How is she doing in school? Because I
21 remember there were some issues with school. How is she
22 doing in school?

23 MR. GAMBLE: She's a B, C student. The challenge
24 we're having now is algebra, so she was getting Ds in
25 algebra. She has been able to bring that up to a C. So

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1 school-wise, she is doing okay.

2 THE COURT: How about socially? Does she have
3 friends at school or -- I mean, that was an issue back when
4 we were together for the trial.

5 MR. GAMBLE: Socially is a challenge. She eats
6 lunch in a classroom with three or four other students with
7 her English teacher. She does not go to the cafeteria.
8 That's one of the things that we've been working on in
9 therapy in terms of trying to help her with her social skills
10 and get her involved.

11 We all clapped in therapy this past weekend because
12 she went to the movies to see Captain America with one of her
13 friends. This is the first time that she has done something
14 like that. So she is making slow progress, but progress in
15 the area of her social development.

16 THE COURT: Okay. Nothing I say is really going to
17 do anything to comfort you and your family in this incredible
18 tragedy that your family is involved in. And unfortunately
19 for you and your family, it's not going to be over today or
20 tomorrow or the next day.

21 And doing what I've been doing now for 20 years, you
22 just might have to take a day at a time. When you have a
23 good day, appreciate it, and when you have a bad day, just
24 ride that storm out.

25 But there's nothing anybody can say to make it any

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1 easier. And I don't know what to say to you because I have
2 not had to walk in your shoes, thank God. So I don't want to
3 say anything more than I'm saying right now.

4 But I'm going to pronounce the sentence shortly. I
5 know you're going to step out. And think it's a good idea
6 you step out, because I'm going to be reciting some stuff
7 from the record that you didn't hear and you probably don't
8 want to hear. But I know Ms. Smith is going to talk to you
9 in a little bit and she'll tell you what happened here today.

10 MR. GAMBLE: Okay. Thank you.

11 MS. SMITH: Thank you, Your Honor.

12 THE COURT: Okay. Mr. Dehate, you have a right to
13 speak on your own behalf. Is there anything you wish to say
14 to me before I impose sentence?

15 DEFENDANT DEHATE: Yes, sir, I do.

16 I'm very sorry for what happened to Mr. Gamble and
17 his family. I did not know the girl's age. She told me she
18 was 19. I never told the officers that she was anything less
19 than 19. I never said anything like that. When they asked
20 me how old she was, I said she was 19.

21 I said I had talked to a girl in Scotland that was
22 16. I did not say it was Amy, because it wasn't. I did not
23 say any of the things that she said in there.

24 I am innocent. I did not know the girl's age. At
25 all. If you look, they said in the EP I know right from the

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1 get-go how old she was, I was telling her to go seek therapy.
2 I don't think I would be doing that if I was trying to groom
3 a girl to have -- to make pornography for me. I wouldn't be
4 saying, "Hey, go seek therapy." I didn't do that. And I did
5 not know it was the same person. It was a different name.
6 I'm innocent of these charges.

7 THE COURT: Okay. Sir, a jury found you guilty on
8 January 15, 2016, Count One, production of child pornography;
9 Count Two, receipt of child pornography; Count Three,
10 possession of child pornography; Count Four, transfer of
11 obscene material to a minor; and Count Five, coercion and
12 enticement of a minor.

13 In a moment I'm going to impose a sentence
14 sufficient but not greater than necessary to comply with the
15 purposes set forth in 18 U.S.C. Section 3553(a).

16 I've considered the nature and circumstances of the
17 offense.

18 The investigation into this offense began on about
19 August 20, 2014 when Mr. Gamble walked into the FBI office in
20 Newark and informed agents that he had found communications,
21 to include sexually-explicit photographs and videos between
22 his 13-year-old daughter and you on her cellular phone.

23 Mr. Gamble gave the agents consent to examine the
24 phone, and doing so he found -- or they found numerous
25 messages between the minor victim and you. And you went by

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1 the names of Den D or Moparman 51 on these messages that were
2 observed to be starting on or about July 17, 2014.

3 The messages were sent via KIK or the KIK app. The
4 agents observed that on July 18, 2014, you, through KIK, had
5 sent the minor a picture of your testicles, along with the
6 message, "My balls just for you. I man-scaped today. I
7 nicked myself with the trimmer and it didn't hurt, but boy,
8 did it bleed."

9 And then you asked the victim, "Do you think you
10 could make a video of you," being her, "pleasuring yourself,"
11 for him -- for you.

12 On the 19th of July, you asked her if she used the
13 KIK video. And later that day, she sent you a topless
14 photograph of herself. She sent you a video later that
15 evening depicting her masturbating.

16 You responded by requesting a longer video with an
17 additional sex act.

18 The agents located three videos on her phone sent by
19 you, one of which was you masturbating and of course the jury
20 saw that during the trial.

21 On the 13th of January, 2015, you were arrested.
22 You admitted to the agents and the officers involved on the
23 task force that you were communicating with her through KIK
24 and EP.

25 Sometime beginning June 2014, you asked her -- you

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1 instructed her how to make sex videos for you. A review of
2 your cellular telephone revealed not only the video of the
3 victim masturbating, but also eight to 12 images of the
4 victim that are clearly child pornography.

5 And prior to communications with her, you were found
6 to be in communication with a 16-year-old from Scotland.
7 And, in fact, you acknowledged her age, and even informed the
8 victim in this case that you had a daddy-daughter
9 relationship with this young lady, this girl in Scotland.

10 And that your chats were sexually explicit and
11 included instructions to the Scottish girl on how she should
12 prepare herself for anal intercourse.

13 You had two separate EP accounts. One was Moparman,
14 M-o-p-a-r-m-a-n 51, in which you were yourself, and another
15 was K9 for Fun.

16 And the second account you posed as a 15-year-old
17 female named Andy who was in love with her father and tell
18 stories of her sexual desire for her father that began in
19 childhood. The chats involved discussions of bestiality and
20 incest. Not only is that a serious crime, it's a sick crime.

21 I've considered your history and your
22 characteristics. You're 51. You have one sister. You're
23 divorced, two children, a son and a daughter. High school
24 education.

25 You have been pretty much employed throughout your

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1 whole life as a machinist up until the time of your arrest.

2 I've considered the need for the sentence imposed to
3 reflect the seriousness of the offense, and again, it is a
4 very serious offense, a troubling offense. It is just so
5 sick it's hard to even talk about it.

6 To promote respect for the law and provide just
7 punishment for what you did.

8 And as Ms. Smith indicated, is significant to me, to
9 afford adequate deterrence to criminal conduct.

10 So the sentence you receive will be a sentence that
11 individuals like you, who prey on young girls and boys, have
12 an understanding of what they're getting themselves into by
13 these perverted, sick actions, these predatory actions.

14 To protect the public from further crimes by you.
15 And you are a predator.

16 To provide you with needed educational, vocational,
17 training, medical care or other correctional treatment in the
18 most effective manner.

19 I've considered the kinds of sentences available.
20 With respect to Count One, there's a mandatory minimum of 15,
21 the max is 30.

22 Count Two, there's a mandatory minimum of five, the
23 max is 20.

24 Count Three, the max is 20.

25 Count Four, the max is ten.

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1 Count Five, there is a mandatory minimum of ten.
2 The max is life.

3 The guidelines, which, of course, are advisory, are
4 292 to 365.

5 So I've considered the kinds of sentences available
6 for this case.

7 And again, I've considered all the factors under 18
8 U.S.C. Section 3553(a) in imposing the sentence that I'm
9 going to impose upon you right now.

10 The jury found you guilty of Count One on
11 January 15, 2016, production of child pornography; Count Two,
12 receipt of child pornography; Count Three, possession of
13 child pornography; Count Four, transfer of obscene material
14 to a minor; Count Five, coercion and enticement of a minor.

15 Pursuant to the Sentencing Reform Act of 1984, the
16 Court, considering the sentencing guidelines which I've
17 stated on the record and the factors contained in 18 U.S.C.
18 Section 3553(a), which I've also stated on the record, I
19 hereby commit you to the custody of the United States Bureau
20 of Prisons for a term of 360 months for Count One.

21 For Counts Two and Three, 240 months; Count Four,
22 120 months; Count Five, 365 months.

23 Your convictions as to Counts One through Five will
24 run concurrent to each other.

25 Upon release from imprisonment you shall be placed

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1 on supervised release for a term of ten years on each count,
2 concurrent.

3 It's further ordered that you must pay a special
4 assessment of \$500 which is due immediately.

5 I'm waiving the imposition of a fine, the cost of
6 incarceration, the cost of supervision due to your lack of
7 financial resources as we understand.

8 Restitution will be determined after the conclusion
9 of the restitution hearing, which we will give you a date
10 after I complete this hearing.

11 While in custody, you shall participate in the
12 inmate financial responsibility program. I'm aware of the
13 requirements of this program, and approve the payment
14 schedules of this program, and hereby order your compliance.

15 Mandatory drug testing is suspended, and that I
16 believe you're a low risk of substance abuse.

17 While on supervision, you shall abide by the
18 standard conditions as adopted by the United States District
19 Court for the Eastern District of Michigan and shall comply
20 with the following special conditions due to the nature of
21 this offense.

22 The following special conditions are imposed: You
23 shall successfully complete any sex offender diagnostic
24 evaluations, treatment or counseling programs and polygraph
25 examinations as directed by your probation officer.

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1 Reports pertaining to sex offender assessments,
2 treatment and polygraph examinations shall be provided to
3 your probation officer. Based on your ability to pay, you
4 shall pay the cost of diagnostic evaluations, treatment or
5 counseling programs and polygraph examinations at an amount
6 to be determined.

7 You shall comply with the requirements of the Sex
8 Offender Registration and Notification Act as directed by
9 your probation officer, the United States Bureau of Prisons,
10 and any state sex offender registry agency in which you
11 reside, work or a student, or were convicted of a qualifying
12 offense.

13 You shall not have any contact of any kind with
14 children under the age of 18 without prior approval of your
15 probation officer.

16 You shall not frequent places where children
17 congregate on a regular basis, such as schools, playgrounds,
18 toy stores, arcades.

19 You shall not purchase, sell, view or possess images
20 or any other media -- any form of media or live venue that
21 depict pornography, sexually-explicit conduct, child erotica
22 or child nudity.

23 You shall not patronize any place where such
24 material or entertainment is available.

25 You shall have all employment preapproved by the

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1 probation department.

2 If your employment requires use of a computer, you
3 shall notify the employer of the nature of your conviction
4 and this notification must be confirmed by your probation
5 officer.

6 You shall not be employed at or participate in any
7 volunteer activities that include contact with children under
8 the age of 15 -- under the age of 18, without prior approval
9 by the probation officer.

10 You shall have all residences preapproved by the
11 probation department. You shall not live in a residence
12 where children under the age of 18 reside without prior
13 approval of the probation officer.

14 You should notify anyone you date or marry with a
15 minor child under the age of 18 of your conviction. I don't
16 think it's going to be an issue in your case.

17 You shall submit your person, residence, office,
18 vehicles, papers, business or place of employment, and any
19 property under your control to a search. Such a search shall
20 be conducted by a United States probation officer at a
21 reasonable time and in a manner based upon a reasonable
22 suspicion of contraband or evidence of a violation of
23 condition of release.

24 Failure to submit to such a search may be grounds
25 for revocation.

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1 You shall warn any residents that the premises shall
2 be subject to searches.

3 You shall provide your probation officer with
4 accurate information about all computer systems, all
5 passwords, internet service providers that you have potential
6 or reasonable access to, and abide by all rules of the United
7 States Probation Department's computer monitoring program.

8 You shall only access a computer approved by the
9 United States Probation Department.

10 You shall consent to the probation officer
11 conducting periodic unannounced examinations of all computer
12 systems, which may include computer monitoring software, at
13 your expense, for the purpose of accounting for all
14 computers, hardware, software and accessories.

15 You shall submit your person, residence, computer
16 and/or vehicle to a search conducted by the United States
17 Probation Department at a reasonable time and manner.

18 You shall inform any other residents that the
19 premises and your computer may be subject to a search
20 pursuant to this condition.

21 You shall provide the probation officer with access
22 to any requested financial information, including billing
23 records, telephone, cable, internet, satellite, et cetera.

24 You shall not have contact, directly or indirectly,
25 with any victim or witnesses in this offense, unless approved

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1 by your probation officer.

2 You shall only have access to the internet through
3 one internet-capable device. All other internet-capable
4 devices, such as cellular phones and gaming consoles, shall
5 not have the internet connection.

6 You are prohibited from accessing any online
7 computer service at any location, including, but not limited
8 to, public libraries, internet cafés and places of employment
9 or education without the permission of your probation
10 officer.

11 You shall not own or possess a camera, photographic
12 device and/or equipment, including video recording equipment,
13 without prior approval of your probation officer.

14 You shall not rent a post office box or a storage
15 unit without prior approval of the probation officer.

16 Due to a potential order of restitution, we will set
17 up a payment schedule for restitution at a rate and schedule
18 approved by me.

19 You shall not incur any new credit charges or open
20 additional lines of credit without approval of your probation
21 officer.

22 And you shall provide your probation officer with
23 access to any requested information.

24 So why did I give you the sentence that I gave you
25 in this case? We heard the testimony of the witnesses. We

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1 saw the exhibits. You are a predator. You have no right to
2 be in society.

3 You prey upon the most vulnerable of children, not
4 only children, but the most vulnerable of children, children
5 that have severe self-esteem issues, mental health issues,
6 trouble adjusting to the very difficult worlds they live in
7 as preteens and teens.

8 This sentence holds you accountable for your actions
9 and will hopefully deter others from engaging in the same
10 type of sick, sick predatory conduct. And that's some of the
11 reasons, besides the 3553(a) factors and reasons that I've
12 stated on the record.

13 Mr. Dehate, do you understand that you are entitled
14 to appellate review of your conviction and sentence?

15 DEFENDANT DEHATE: Yes, I do.

16 THE COURT: And if you wish to appeal this
17 conviction and sentence, you must do so within 14 days.

18 Did you hear what I just said?

19 DEFENDANT DEHATE: Yes.

20 THE COURT: And if you wish to appeal this
21 conviction and sentence, you must do so -- strike that.

22 If you wish to appeal this conviction and sentence,
23 I would suggest you discuss this issue immediately with your
24 attorney, Mr. Nelson.

25 Did you hear what I said?

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1 DEFENDANT DEHATE: Yes.

2 THE COURT: If you cannot afford to hire an attorney
3 to represent you on appeal, you need to file the necessary
4 indigent paperwork immediately with the clerk of the court.

5 Did you hear what I just said?

6 DEFENDANT DEHATE: Yes.

7 THE COURT: Ms. Smith, any other sentencing issues?

8 MS. SMITH: No, Your Honor. I do have two
9 housekeeping matters, if I may.

10 THE COURT: Fire away.

11 MS. SMITH: The first one has to do with forfeiture.
12 I understand the Court has entered a preliminary order of
13 forfeiture, but we would ask that the judgment include
14 forfeiture of one Samsung Galaxy S2, model SPHD710 cell
15 phone. And we will submit the proper language for the
16 judgment to the Court for that.

17 THE COURT: Any objection, Mr. Nelson?

18 MR. NELSON: No objection. We would ask, Your
19 Honor, that it be held for evidence if there is a potential
20 appeal on this matter.

21 MS. SMITH: It will be held, Your Honor.

22 THE COURT: Okay.

23 MS. SMITH: The second issue is on behalf of the
24 family. I would ask the judgment include a no contact order
25 for minor victim one, "no contact" being defined as no

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1 contact directly with minor victim one and no attempts to try
2 and contact her through third parties.

3 THE COURT: I will do that.

4 MS. SMITH: Thank you.

5 THE COURT: Any other sentencing issues, Mr. Nelson?

6 MR. NELSON: Yes, Your Honor. I heard the Court's
7 instruction to my client regarding appeal. He has indicated
8 to me that he does wish to appeal and he is wishing to raise
9 ineffective assistance of counsel.

10 If the Court would give me guidance as to whether I
11 should file the notice of appeal form, discuss with him
12 notice of appeal or how I should handle that, this situation?

13 THE COURT: Yeah, we will give him a notice of
14 appeal right now that he can file.

15 MR. NELSON: I would appreciate that, Your Honor, so
16 I'm not --

17 THE COURT: As to the other issues, that's something
18 you and your client need to work out.

19 And Ms. McCoy just handed the notice to Mr. Dehate
20 and Mr. Nelson.

21 (Brief pause in proceedings)

22 THE COURT: Is he done?

23 MR. NELSON: He is, Your Honor.

24 We request that I be allowed to withdraw if a new
25 Court-appointed counsel be --

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1 THE COURT: I have no motion in front of me. That
2 would have to be in writing, which is my policy.

3 All right, any objection to the sentence by the
4 government?

5 MS. SMITH: No, Your Honor.

6 THE COURT: Any objection to the sentence by the
7 defense?

8 MR. NELSON: Nothing other than what was on the
9 record, Your Honor.

10 THE COURT: Okay. You're referring specifically to
11 the objections to the presentence report that we covered, and
12 those would be your only objections, is that correct?

13 MR. NELSON: That's correct, Your Honor.

14 THE COURT: Okay. Thank you.

15 MS. SMITH: Thank you, Your Honor.

16 THE COURT: Restitution hearing is going to be?

17 DEPUTY COURT CLERK: June 24th at 9:30 a.m.

18 MS. SMITH: Thank you.

19 MR. NELSON: Thank you, Your Honor.

20 DEPUTY COURT CLERK: Court is in recess.

21 (Court in recess at 3:55 p.m.)

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C E R T I F I C A T I O N

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I, Marie J. Metcalf, Official Court Reporter for the
United States District Court, Eastern District of Michigan,
Southern Division, appointed pursuant to the provisions of
Title 28, United States Code, Section 753, do hereby certify
that the foregoing is a correct transcript of the proceedings
in the above-entitled cause on the date hereinbefore set
forth.

22

23

I do further certify that the foregoing transcript
has been prepared by me or under my direction.

24

s\Marie J. Metcalf

05-22-16

25

Marie J. Metcalf, CVR, CM

(Date)